

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

ANGELA SLATER §
§
Plaintiff, §
§
v. § CIVIL ACTION NO. 4:19-cv-469
§
JOSHUA JEFFERSON §
And BLOOMIN' BRANDS, INC., §
Defendants. §

DEFENDANT'S NOTICE OF REMOVAL

COMES NOW, BLOOMIN' BRANDS, INC. ("Defendant") and files its Notice of Removal pursuant to 28 U.S.C §§ 1332 and 1441 and would show the Court as follows:

I.
BACKGROUND

1. On November 30, 2018, Plaintiff Angela Slater ("Plaintiff") filed her Original Petition in state court asserting a premises liability claim against Defendants. Plaintiff contends that on January 2, 2018, she was an invitee of Outback Steakhouse of Florida, LLC d/b/a Outback Steakhouse while at its restaurant located in Arlington, Texas. (*See* Ex. A, p. 2). She claims that as she walking towards the bar area, she slipped and fell on a slippery substance, which resulted in personal injuries. *Id.*

2. Defendant Bloomin' Brands, Inc. is incorporated in Delaware with its principal place of business in the State of Florida. Outback Steakhouse of Florida, LLC (Outback)¹, is a Florida limited liability company formed with its principal place of business in Florida. However, "[t]he citizenship of a LLC is determined by the citizenship of all of its members." *Harvey v. Grey Wolf*

¹ Plaintiff only named Bloomin' Brands as a Defendant, but to err on the side of caution, Bloomin' Brands wanted to advise the Court of the citizenship of Outback Steakhouse of Florida, LLC, since this incident took place at one of its locations. Bloomin' Brands is the parent company of Outback Steakhouse of Florida, LLC.

Drilling Co., 542 F.3d 1077, 180 (5th Cir. 2008). The sole member of Outback is OSI Restaurant Partners, LLC. OSI Restaurant Partners, LLC is a Delaware limited liability company with its principal place of business in Florida. The sole member of OSI Restaurant Partners, LLC is OSI Holdco, Inc. OSI Holdco, Inc. is a Delaware company with its principal place of business located at 2202 N. West Shore Blvd., 5th Floor, Tampa, Florida 33607. Therefore, both Defendant and Outback are citizens of Delaware and Florida. *See* 28 U.S.C. §1332(c)(1) (“a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business”); *see also Hertz Corp. v. Friend*, 559 U.S. 77, 80 (2010).

3. Plaintiff contends Defendant was negligent in failing to maintain the premises in a reasonably safe condition, and failing to protect and safeguard the invitees such as Plaintiff from the unreasonably safe conditions. Plaintiff also asserts that Defendant knew or should have known of the dangerous condition on the premises, but failed to warn and make safe the allegedly dangerous condition. (*Id.* at ¶¶ 1).

II.
GROUND FOR REMOVAL: DIVERSITY JURISDICTION

4. Pursuant to 28 U.S.C §1332(a), this case is removable to this Court on the basis of diversity jurisdiction.

Citizenship of the Parties

5. As stated in Plaintiff’s Original Petition filed in the state court action, Plaintiff Angela Slater is a resident of Mansfield, Tarrant County, Texas.

6. Defendant Bloomin’ Brands, Inc. is incorporated in Delaware with its principal place of business in the State of Florida.

Amount in Controversy

7. In her Original Petition, Plaintiff alleges she seeks monetary relief over \$1,000,000. Therefore, the amount in controversy exceeds \$75,000, exclusive of interest and costs. (See Ex. A, p. 2).

8. Removal of the state court action to this Court is proper pursuant to 28 U.S.C §1332(a) because there is complete diversity between Plaintiff and Defendant Bloomin' Brands, Inc., and the amount in controversy exceeds \$75,000.

III.
PROPER COURT FOR REMOVAL

9. Plaintiff filed this case, pending under Cause No. 348-304647-18, styled as *ANGELA SLATER v. JOSHUA JEFFERSON AND BLOOMIN' BRANDS, INC.*, in the 348th Judicial District Court of Tarrant County, Texas.

10. Thus, the United States District Court for the Northern District of Texas, Fort Worth Division is the proper court in which to remove this action pursuant to 28 U.S.C. §1441(a) and 28 U.S.C. §1446(a) because this district and division embrace the place in which the removed action was pending.

IV.
TIMELINESS OF REMOVAL

11. Joshua Jefferson² and Bloomin' Brands, Inc., were served with Plaintiff's Original Petition on December 15, 2018 and December 12, 2018, respectively. Plaintiff filed a nonsuit seeking the state court's dismissal of Joshua Jefferson on May 15, 2019. The state court signed the order of nonsuit on May 16, 2019. Bloomin' Brands is the sole remaining Defendant in this case.

² Joshua Jefferson is no longer a Defendant in this matter.

12. This Notice of Removal is filed within thirty (30) days after receipt by Defendant, through order of the state court nonsuiting Joshua Jefferson;³ thus, the case has become removable pursuant to 28 U.S.C. § 1446(b)(3).

13. This Notice of Removal is filed less than one year after commencement of the action pursuant to 28 U.S.C. § 1446(c)(1).

14. This Notice of Removal is therefore timely filed.

V.
CONSENT TO REMOVAL

15. Defendant Bloomin' Brands is the only Defendant now named in the state court action, therefore consent is not required pursuant to 28 U.S.C. §1446(b).

VI.
NOTICE TO ADVERSE PARTIES AND STATE COURT

16. Defendant is giving Plaintiff notice of this Notice of Removal pursuant to 28 U.S.C. §1446(d) by filing this Notice electronically with the Clerk of Court through the ECF System; the ECF System will send a Notice of Electronic Filing to Plaintiff upon filing.

17. Defendant will also file a copy of this Notice of Removal with the 348th Judicial District Court of Tarrant County, Texas where the state court action is currently pending as required by 28 U.S.C. §1446(d).

VII.
ANSWER

18. Defendant filed an Answer in the state court action prior to this Notice of Removal.

³ Joshua Jefferson is a citizen of Arlington, Tarrant County, Texas.

VIII.
ATTACHMENTS

19. Pursuant to LR 81.1 of the Local Rules of the Northern District of Texas the following documents are being filed with this Court as exhibits to this Notice of Removal:

Exhibit A Civil Cover Sheet

Exhibit B Supplemental Cover Sheet

Exhibit C Copies of all process, pleadings, orders, and other filings in the state action are as required by 28 U.S.C. §1446(a)

Exhibit 1 Copy of the Case Summary/Docket Sheet in the State Action

Exhibit 2 Plaintiff's Original Petition and Requests for Disclosures

Exhibit 3 Civil Citations, Affidavit of Services and Return of Service

Exhibit 4 Defendant's Original Answer

Exhibit D Certificate of Interested Persons

For the reasons above, Defendant BLOOMIN' BRANDS, INC., removes pending case under Cause No. 348-304647-18, in the 348th Judicial District Court of Tarrant County, Texas to this Court and requests the Court place this action on its docket for further proceedings and that the Court issue all necessary orders.

Respectfully submitted,

By: /s/ Stefani Williams

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**ATTORNEYS FOR DEFENDANTS
BLOOMIN' BRANDS, INC.**

CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2019, a true and correct copy of the foregoing has been filed electronically with the Clerk of Court through ECF, and ECF will send a Notice of Electronic Filing to the following:

Via E-Filing

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